

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Review for Anti-Deficiency Violations



JAN 13 2015

Eugene A. Jones
Interim Fire Chief
Fire and Emergency Medical Services
2000 14th Street, NW
Suite 500
Washington, DC 20009

Daryl Staats
Agency Fiscal Officer
Fire and Emergency Medical Services
2000 14th Street, NW
Suite 500
Washington, DC 20009

Re: Fire Training Simulator, Project FTS01C

Dear Chief Jones and Mr. Staats:

The Board of Review for Anti-Deficiency Violations (BRADV) was established pursuant to the District Anti-Deficiency Act of 2002 (“Anti-Deficiency Act”), effective April 4, 2003 (D.C. Law 14-285; D.C. Official Code § 47-355.01 *et seq.*). The purpose of BRADV is to advise and make recommendations to the Mayor, the Council of the District of Columbia, the Inspector General, and the Chief Financial Officer with respect to reported potential violations of the Anti-Deficiency Act by officers and employees of the District of Columbia government. When potential violations are identified by the Office of the Chief Financial Officer (OCFO), the OCFO notifies BRADV which then independently investigates potential violations to assess culpability and recommend appropriate action. As part of this investigation, BRADV notifies the responsible agency and Agency Fiscal Officer and requests an explanation of the suspected violation and what will be done to prevent the recurrence of the same type of violation.

BRADV has been informed by the OCFO’s Office of Budget and Planning that your agency has violated the Anti-Deficiency Act by failing “to operate within the established budget for Fiscal Year 2014” See D.C. Official Code § 47-355.02(8). Specifically, the actual expenditures for FY 2014 for the Fire Training Simulator, Project FTS01C, show that the project is over the established budget by \$7,569.80.

We are requesting that you provide a joint written response to BRADV by close of business February 3, 2015 explaining the reason for the noncompliance.

In the future, BRADV will closely monitor the submission of your agency's reports to the Office of Budget and Planning. If you have any questions regarding this correspondence, please contact Mr. David Clark, Office of Budget and Planning at david.allen.clark@dc.gov.

At your discretion, instead of mailing your response, you may send a signed copy of your response in Portable Document Format (PDF) as an attachment to an email addressed to David Clark. Your cooperation in this matter is greatly appreciated.

Sincerely,

A handwritten signature in cursive script, appearing to read "Angell Jacobs".

Angell Jacobs
Chairperson

cc: David Clark, Office of Budget and Planning, OCFO

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Review for Anti-Deficiency Violations



JAN 13 2015

Cathy Lanier
Chief of Police
Metropolitan Police Department
300 Indiana Avenue, NW
Room 5059
Washington, DC 20001

Leroy Clay
Agency Fiscal Officer
Metropolitan Police Department
300 Indiana Avenue, NW
Washington, DC 20001

Re: General Improvements - MR, Project PMR01C

Dear Chief Lanier and Mr. Clay:

The Board of Review for Anti-Deficiency Violations (BRADV) was established pursuant to the District Anti-Deficiency Act of 2002 (“Anti-Deficiency Act”), effective April 4, 2003 (D.C. Law 14-285; D.C. Official Code § 47-355.01 *et seq.*). The purpose of BRADV is to advise and make recommendations to the Mayor, the Council of the District of Columbia, the Inspector General, and the Chief Financial Officer with respect to reported potential violations of the Anti-Deficiency Act by officers and employees of the District of Columbia government. When potential violations are identified by the Office of the Chief Financial Officer (OCFO), the OCFO notifies BRADV which then independently investigates potential violations to assess culpability and recommend appropriate action. As part of this investigation, BRADV notifies the responsible agency and Agency Fiscal Officer and requests an explanation of the suspected violation and what will be done to prevent the recurrence of the same type of violation.

BRADV has been informed by the OCFO’s Office of Budget and Planning that your agency has violated the Anti-Deficiency Act by failing “to operate within the established budget for Fiscal Year 2014” See D.C. Official Code § 47-355.02(8). Specifically, the actual expenditures for FY 2014 for the General Improvements - MR, Project PMR01C, show that the project is over the established budget by \$3,936.00.

We are requesting that you provide a joint written response to BRADV by close of business February 3, 2015 explaining the reason for the noncompliance.

In the future, BRADV will closely monitor the submission of your agency's reports to the Office of Budget and Planning. If you have any questions regarding this correspondence, please contact Mr. David Clark, Office of Budget and Planning at david.allen.clark@dc.gov.

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Angell Jacobs
Chairperson

cc: David Clark, Office of Budget and Planning, OCFO

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Review for Anti-Deficiency Violations



February 26, 2016

Leif A. Dormsjo
Director
D.C. Department of Transportation
55 M Street, SE, Suite 400
Washington, DC 20003

George A. Schutter
Chief Procurement Officer
Office of Contracting and Procurement
441 4th Street, NW, 700S
Washington, DC 20001

Re: Parkmobile USA, Inc., Contract No. DCKC-2011-C-0026

Dear Mr. Dormsjo and Mr. Schutter:

The Board of Review for Anti-Deficiency Violations (the Board) was established to investigate possible violations of the District's Anti-Deficiency Act. *See* District Anti-Deficiency Act of 2002, effective April 4, 2003 (D.C. Law 14-285; D.C. Official Code § 47-355.01 *et seq.*).

On February 20, 2015, the District Department of Transportation Contract DCKA-2011-R-0026, with Park Mobile USA, Inc., was referred to the Board. Modification M09, executed on December 30, 2013, changed Section C.5 to read, "Parkmobile shall . . . pass along all parking revenues generated by mobile payment-initiated transactions, less any bank transfer and convenience fees." The Board was concerned with the flow of revenue; when the contract was executed all revenue collected by Parkmobile was remitted to the District. However, the modification changed this and allowed Parkmobile to retain a portion of the revenue instead of remitting the total revenue to the District. After reviewing the issue, the Board found no violation of the Act.

However, the Home Rule Act contains a provision referred to as the Miscellaneous Receipts Rule, which states, "[a]ll money received by any agency, officer, or employee of the District in its or his official capacity shall belong to the District government and shall be paid promptly to the Mayor for deposit in the appropriate fund." *See* D.C. Official Code § 1-204.50. It appears that the Parkmobile contract violated the Rule. The contract directed Parkmobile to collect revenue on behalf of the District and made Parkmobile the District's agent. As an agent, Parkmobile was required to send all revenue collected to the District. The District would then return a portion of the revenue to Parkmobile to cover

the contractor's fees. The modification which allowed Parkmobile to keep a portion of the revenue and to remit less than the full amount to the District does not appear to conform to the Rule. It is important to keep the Rule in mind when negotiating contracts. If you have any questions about this letter, please contact counsel to the Board, Laurie Ensworth, 724-5537 or laurie.ensworth@dc.gov or Patricia Gracyalny, 727-0871 or patricia.gracyalny@dc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Angell Jacobs". The signature is fluid and cursive, with a large initial "A" and "J".

Angell Jacobs
Chairperson

cc: Secretary to the Board
George Dines, OCFO

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Review for Anti-Deficiency Violations



JAN 13 2015

Tommy Wells
Acting Director
District Department of the Environment
1200 First Street, NE
5th Floor
Washington, DC 20002

Robert Jose
Agency Fiscal Officer
District Department of the Environment
1200 First Street, NE
5th Floor
Washington, DC 20002

Re: Clean Water Construction Management, Project CWC01C

Dear Mr. Wells and Mr. Jose:

The Board of Review for Anti-Deficiency Violations (BRADV) was established pursuant to the District Anti-Deficiency Act of 2002 (“Anti-Deficiency Act”), effective April 4, 2003 (D.C. Law 14-285; D.C. Official Code § 47-355.01 *et seq.*). The purpose of BRADV is to advise and make recommendations to the Mayor, the Council of the District of Columbia, the Inspector General, and the Chief Financial Officer with respect to reported potential violations of the Anti-Deficiency Act by officers and employees of the District of Columbia government. When potential violations are identified by the Office of the Chief Financial Officer (OCFO), the OCFO notifies BRADV which then independently investigates potential violations to assess culpability and recommend appropriate action. As part of this investigation, BRADV notifies the responsible agency and Agency Fiscal Officer and requests an explanation of the suspected violation and what will be done to prevent the recurrence of the same type of violation.

BRADV has been informed by the OCFO’s Office of Budget and Planning that your agency has violated the Anti-Deficiency Act by failing “to operate within the established budget for Fiscal Year 2014” See D.C. Official Code § 47-355.02(8). Specifically, the actual expenditures for FY 2014 for the Clean Water Construction Management, Project CWC01C, show that the project is over the established budget by \$671,101.76.

We are requesting that you provide a joint written response to BRADV by close of business February 3, 2015 explaining the reason for the noncompliance.

In the future, BRADV will closely monitor the submission of your agency's reports to the Office of Budget and Planning. If you have any questions regarding this correspondence, please contact Mr. David Clark, Office of Budget and Planning at david.allen.clark@dc.gov.

At your discretion, instead of mailing your response, you may send a signed copy of your response in Portable Document Format (PDF) as an attachment to an email addressed to David Clark. Your cooperation in this matter is greatly appreciated.

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Angell Jacobs
Chairperson

cc: David Clark, Office of Budget and Planning, OCFO

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Review for Anti-Deficiency Violations



JAN 13 2015

Polly Donaldson
Director
Department of Housing and Community Development
1800 Martin Luther King, Jr. Avenue, SE
Suite 300
Washington, DC 20020

Douglas Kemp
Agency Fiscal Officer
Department of Housing and Community Development
1800 Martin Luther King, Jr. Avenue, SE
Suite 300
Washington, DC 20020

Re: Property Acquisition and Disposition, Project 04002C

Dear Ms. Donaldson and Mr. Kemp:

The Board of Review for Anti-Deficiency Violations (BRADV) was established pursuant to the District Anti-Deficiency Act of 2002 (“Anti-Deficiency Act”), effective April 4, 2003 (D.C. Law 14-285; D.C. Official Code § 47-355.01 *et seq.*). The purpose of BRADV is to advise and make recommendations to the Mayor, the Council of the District of Columbia, the Inspector General, and the Chief Financial Officer with respect to reported potential violations of the Anti-Deficiency Act by officers and employees of the District of Columbia government. When potential violations are identified by the Office of the Chief Financial Officer (OCFO), the OCFO notifies BRADV which then independently investigates potential violations to assess culpability and recommend appropriate action. As part of this investigation, BRADV notifies the responsible agency and Agency Fiscal Officer and requests an explanation of the suspected violation and what will be done to prevent the recurrence of the same type of violation.

BRADV has been informed by the OCFO’s Office of Budget and Planning that your agency has violated the Anti-Deficiency Act by failing “to operate within the established budget for Fiscal Year 2014” See D.C. Official Code § 47-355.02(8). Specifically, the actual expenditures for FY 2014 for the Property Acquisition and Disposition, Project 04002C, show that the project is over the established budget by \$383,607.36.

We are requesting that you provide a joint written response to BRADV by close of business February 3, 2015 explaining the reason for the noncompliance.

In the future, BRADV will closely monitor the submission of your agency's reports to the Office of Budget and Planning. If you have any questions regarding this correspondence, please contact Mr. David Clark, Office of Budget and Planning at david.allen.clark@dc.gov.

At your discretion, instead of mailing your response, you may send a signed copy of your response in Portable Document Format (PDF) as an attachment to an email addressed to David Clark. Your cooperation in this matter is greatly appreciated.

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Angell Jacobs
Chairperson

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